

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IN THE MATTER OF)	ADMINISTRATIVE
ORDER		
A SEXUAL HARASSMENT POLICY FOR)	NO. 93-050
THE El Mirage MUNICIPAL COURT)	
_____)	

Pursuant to the Arizona Judiciary Policy requiring each court in Arizona to develop and adopt procedures to resolve sexual harassment complaints, and;

Pursuant to the authority vested in the Presiding Judge of the Superior Court, as provided in Supreme Court of Arizona, Administrative Order, # 90-3;

ORDERED that the following Sexual Harassment Policy for the El Mirage Municipal Court shall become effective as of the date of this Order, and shall bring the El Mirage Municipal Court in compliance with the Arizona Judiciary Policy cited herein:

1. Purpose

The purpose of this policy is to define sexual harassment, to establish a policy prohibiting sexual harassment and to develop procedures for filing and resolving complaints of sexual harassment.

2. Definition

Sexual harassment is an unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or,
- c. such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or of creating an intimidating, hostile or offensive work environment.

3. Policy

Sexual harassment in any form will not be tolerated by the Court and shall be grounds for disciplinary action up to and including dismissal. Incidents of alleged sexual harassment involving court employees or applicants for positions in the Court will be presented in writing. Written complaints will be submitted to the appropriate party outlined in the complaint procedures. The action to be taken, including disciplinary measures, will be determined by the appropriate supervisory authority. Depending on the severity of the matter, the disciplinary action could include a) oral counseling, b) documented counseling, c) suspension, d) demotion or e) termination.

In investigating any complaint or taking any other action pursuant to these procedures, the person or persons making such investigation or taking such action shall proceed in a manner so as to ensure fairness to all persons involved. In determining whether alleged conduct constitutes sexual harassment and, if so, what disciplinary action is appropriate, consideration shall be given to the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred.

All complaints, responses, investigations and other papers or proceedings filed or had pursuant to these guidelines shall be confidential. However, any or all of such information may be subject to legal process and production in court.

Neither the filing of a good faith complaint for sexual harassment nor the participation in the investigation of such a complaint can be grounds for retaliating against or disciplining that employee. Any employee, however, who knowingly or recklessly makes a false accusation of sexual harassment will likewise be subject to disciplinary action up to and including dismissal.

4. Reporting Complaints

a. Court Employees

Complaints against court employees will be lodged with the Presiding Magistrate.

b. Employees of Other Agencies or Vendors

Complaints by court employees against employees of other agencies or vendors will be reported to the Presiding Magistrate who will insure that the complaint is reported to the appropriate authority and take the action necessary to resolve the complaint. Sexual harassment by vendors may be grounds for termination of vendor contracts.

c. Judges

Complaints against judges will be lodged with the Presiding Magistrate, or directly to the Commission on Judicial Conduct pursuant to the rules of the Commission on Judicial Conduct. If lodged with the Presiding Magistrate, the complaint will be resolved to the extent possible or reported to the Commission on Judicial Conduct for formal investigation.

d. Presiding Judge

Complaints against the Presiding Magistrate will be lodged with the Presiding Judge of the Superior Court, or submitted directly to the Commission on Judicial Conduct pursuant to the rules of the Commission on Judicial Conduct. If lodged with the Presiding Judge of the Superior Court, the complaint will be investigated and resolved to the extent possible or reported to the Commission on Judicial Conduct for formal investigation.

If the complaint is filed with the Presiding Magistrate or the Presiding Judge of the Superior Court, the complaint will be resolved to the extent possible within the limits of their authority to take the action necessary to stop the harassment or appearance of harassment. The Presiding Magistrate and the Presiding Judge of the Superior Court have no ability to affect the employment status of other judges. Therefore, if the complainant or person complained against is not satisfied by the resolution of the complaint against a judge, the complaint may be submitted to the Commission on Judicial Conduct.

5. Responsibilities

a. All Court Employees

All court employees are responsible for timely reporting of any act of sexual harassment in accordance with the procedures set forth herein. This includes both the person being harassed or any person in a supervisory capacity having personal knowledge of the harassment.

b. Judges, Department Heads and Hiring Authorities

All judges, department heads and hiring authorities will be responsible for investigating and deciding complaints against their employees. They may, at their discretion, delegate responsibility for conducting an investigation and request recommendations on the appropriate action to be taken.

All judges, department heads and hiring authorities will act on behalf of their employees to take the steps necessary to ensure that the harassment, or any appearance of harassment of their employees, ceases.

c. Court Employee Representative

A court employee representative will be responsible for being knowledgeable of the sexual harassment policy and will serve in an advisory capacity to all employees of that department. If requested, this employee will be available to discuss the matter with other employees to help them with the complaint process and to discuss alternative methods of solving the problem. This designated employee is exempt from the requirement to report knowledge of sexual harassment, and discussions this employee may have concerning sexual harassment shall be confidential to the maximum extent permitted by law. If a magistrate court can not designate a specific court employee, for purposes of this policy the Superior Court Personnel Officer may be utilized in an advisory capacity upon specific request of the Presiding Magistrate to the Presiding Judge of the Superior Court.

6. Complaint Procedures

a. The complainant must make a written complaint with the appropriate judicial officer designated by this policy.

b. The judicial officer with whom any complaint has been filed has 15 days to respond in writing to the complaining party. This response will include a summary of findings, plus intention of action to be taken.

c. Should a determination be made that sexual harassment has occurred, the responsibility for taking corrective action rests with the designated judicial officer.

d. If after 15 days the issuer of the complaint has not received a written response, or if within a reasonable time after receiving a written response the issuer is not satisfied with the resolution of the complaint, the complainant can take the complaint directly to the agencies listed below under "Alternative and Additional Remedies".

7. Alternative and Additional Remedies

At any time, concurrent with or subsequent to reporting a complaint of sexual harassment to the designated court official, any person may file his or her complaint with the following agencies:

- a. The Arizona Civil Rights Division of the Attorney General's Office.
- b. The Equal Employment Opportunity Commission.
- c. The Commission on Judicial Conduct, in the case of a complaint against a judge.

DONE June 30, 1993.

C. Kimball Rose, Presiding Judge
Maricopa County

ORIGINAL: Clerk of Court

COPIES: Chief Justice Feldman
Judge deSzendeffy
Mayor of El Mirage
City Manager, El Mirage